REMARKS

This responds to the Office Action dated April 1, 2010.

No claims are amended, canceled, or added; as a result, claims 246-249, 251-258, 260-262, 265-273, 276-278, 280-281, 284-292, 294-299 and 301-313 remain pending in this application.

The Rejection of Claims Under § 103

Claims 246-249, 251, 254-258, 260-262, 265-273, 276-278, 280-281, 284-292 & 294-299 & 301-313 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graczyk, (U.S. Pat # 5,192,999), in view of Fitzpatrick, (U.S. Pat # 5,262,860).

The U.S. Supreme Court decision of *KSR v. Teleflex* provides a tripartite test to evaluate obviousness.

> The rationale to support a conclusion that a claim would have been obvious is that *all the claimed elements were known in the prior art* and one skilled in the art could have combined the elements as claimed by known methods *with no change in their respective functions*, and *the combination would have yielded nothing more than predictable results* to one of ordinary skill in the art.[1]

"If *any of these [three] findings* cannot be made, then this rationale [of combining prior art elements according to known methods to yield predictable results] cannot be used to support a conclusion that the claim would have been obvious."[2] Applicants will show that the cited references, singly or in combination, do not disclose all limitations of Applicants' claimed elements, with no change in the respective functions of the cited references at least because each cited reference discloses only a single computer at the client location, while the claims require a stand-alone local computer in addition to a client computer.

Graczyk describes a multipurpose computerized television system for generating a plurality of video images in association with a personal computer. The system in Graczyk

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[1] *See KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 U.S.P.Q.2d 1385 (2007); *see also* MPEP § 2143, emphasis added.
[2] MPEP § 2143, emphasis added.

comprises a personal computer that includes a personal computer chassis and a monitor. A television circuit is associated with the personal computer and is within the chassis for receiving a plurality of television signals and directing the signals to the monitor for display.[3] In Fig. 1, Gtaczyk illustrates a workstation 10 that includes a host computer 24 and a multimedia circuitry 12. The multimedia circuitry 12, in turn, includes a television (TV) circuit 46.[4] Television circuit 46 may receive video signals from broadcast television 62, cable television 64, or analog data input 66 from a video cassette recorder or video laser disk player.[5]

The Office Action correlated a television (TV) circuit 46 with "a local computer" recited in 246. Claim 246 recites several components (a client that includes a client computer and a local computer) and also recites a particular relationship between the local computer and the client. Specifically, the "local computer" of claim 246 is to control the client to process a computer program included in the data received by the client. Claim 246 also requires that "a local computer" comprises a stand-alone computer system. Thus, unless prior art discloses a local computer component that (1) comprises a stand-alone computer system and (2) is to control another component, the client, in a specified manner (i.e., to process a computer program included in the data received by the client), claim 246 cannot be regarded as obvious in view of the prior art.

A television (TV) circuit 46 of Graczyk (cited in the final Office Action to show "a local computer" recited in 246) does not comprise a stand-alone computer system and is not capable of controlling the workstation 10 (cited in the final Office Action to show "a client" recited in claim 246) to process a computer program included in data received at the workstation 10. Thus, because TV circuit 46 of Graczyk is distinct from "a local computer" recited in 246 Graczyk fails to disclose "a local computer" recited in 246.

The Office Action cites Fitzpatrick in an attempt to remedy the deficiency of Graczyk. Specifically, the Office Action relies on the computer 34 of Fitzpatrick to show "a stand-alone

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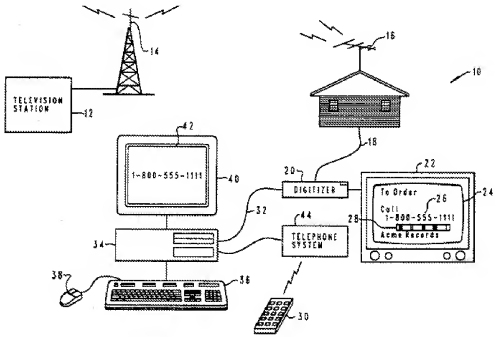
[3] Graczyk, 2: 10-22.
[4] Id., 4: 44-48.
[5] Id., 5: 64-67. See also Id., 9: 41-62.

computer system … to control the client to process a computer program included in the received data," recited in 246.

The system described in Fitzpatrick that comprises the computer 34 (cited in the final Office Action to show a "local computer comprising a stand-alone computer system … to control the client to process a computer program included in the received data," recited in 246) is shown in Fig. 1, which is reproduced below.

Fig. 1



As is evident from the illustration above, the computer 34 is a stand-alone computer, but it is the only computer system in the architecture contemplated by Fitzpatrick. Therefore, the computer 34 cannot be viewed as a stand-alone computer to control another computer (such as a client comprising a client computer of claim 246). In order to show "the local computer to control the client to process a computer program included in the received data" recited in claim 246, the Office Action cites the passages from Fitzpatrick at column 5 lines 1-35 and column 6 lines 35-60, which are reproduced below.

…representation of at least one video frame within a received broadcast video signal. Thereafter, that image is converted to a Tagged Image File Format (TIFF) and stored for future processing, as depicted at block 86.
Next, the process passes to block 88. Block 88 illustrates a determination of whether or not the user has defined a template for utilization in the extraction of textual or numeric data from the captured video frame described above. Those skilled in the art will appreciate that the user may define specific numeric templates, such as a template beginning "1-800-.sub.-- -.sub.-- " which may be utilized to increase the efficiency of an optical character recognition process by further defining the numeric data which is to be extracted from a video frame. Additionally, a specific barcode frame may also be defined and utilized, in a manner well known to those skilled in the barcode reader art, to facilitate the scanning and extraction of barcodes from within a video frame in the captured portion of the broadcast video signal.
In the event a template has been defined by the user, the process passes to block 90 which illustrates the retrieval of that template from system memory. Thereafter, or in the event no template has been defined, the process passes to block 92. Block 92 illustrates a determination of whether or not a barcode is present within the captured video frame. If so, the process passes to block 100 which illustrates the reading of that barcode utilizing well known barcode scanning processes. Referring again to block 92 in the event no barcode is present within the captured video frame, the process passes to block 94. Block 94 illustrates a determination of whether or not textual or numeric data is present within the captured video frame, and if not, the process passes to block 96…[6]

… terminates.
Upon reference to the foregoing those skilled in the art will appreciate that the applicants herein have create a novel method and system whereby visually perceptible data within a broadcast video signal, such as textual and/or numeric data, may be captured by digitizing a selected video frame within the broadcast video signal and thereafter extracting textual and/or numeric data from that video frame, utilizing optical character recognition processes or barcode scanning techniques, in the event a barcode is transmitted in association with the broadcast video signal. That information is then extracted from the captured video frame and stored, in conjunction with the captured video frame, to permit a user of data processing system 34 to automatically initiate communications between data processing system 34 and an external location. Thus, a user viewing a broadcast video signal from a local television station may, utilizing a remote control, such as remote control 30, initiate the capture of a particular frame of video data and assure himself or herself that important textual and/or numeric information within that frame, such as an address or telephone number, is captured and stored within data processing system 34

[6] Fitzpatrick, column 5, lines 1-35.

> and, may be utilized to automatically initiate communication between the user and an external location.[7]

As can be seen from the above-reproduced passages, Fitzpatrick does not contemplate the computer 34 (correlated with the "local computer" by the Office Action) controlling a client comprising a client computer with respect to processing a computer program included in the data received by the client. Combining a tuner of Graczyk (that does not control another computer system) with Fitzpatrick (that does not contemplate computer 34 controlling another component that comprises a client computer and even less so controlling such other component to process received by the client computer system) does not yield a "local computer" recited in claim 246. Because the combination of Graczyk and Fitzpatrick fails to disclose or suggest "a client to receive data" and "a local computer … to control the client to process a computer program included in the received data," as recited in claim 246, claim 246 and its dependent claims are patentable in view of the Graczyk/Fitzpatrick combination and should be allowed.

Arguments articulated above are also applicable to claims 254-249, 251-258, 260-262, 265-273, 276-278, 280-281, 284-292, 294-299 and 301-313. These claims are thus patentable in view of the Graczyk/ Fitzpatrick combination and should be allowed. Applicants respectfully request that the rejections of the above-identified claims be withdrawn.

[7] Fitzpatrick, column 6, lines 35-60.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402--0938
(408) 278-4052

Date September 1, 2010

By /Elena Dreszer/
Elena B. Dreszer
Reg. No. 55,128

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 1 day of September, 2010.

John D. Gustav-Wrathall
Name


Signature